

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION**

LINDSEY HOWELL

Plaintiff

V.

**LIN'S RESTAURANT, INC.,
D/B/A HAYASHI HIBACHI
JAPANESE RESTAURANT**

Defendants.

§
§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. 2:14-cv-236

**MOTION TO WITHDRAW AS COUNSEL FOR LIN'S RESTAURANT, INC. D/B/A
HAYASHI HIBACHI JAPANESE RESTAURANT**

TO THE HONORABLE UNITED STATES DISTRICT COURT:

COME NOW Bradley W. Howard and Allison L. Davis, attorneys at Brown & Fortunato, P.C., and move the Court for permission to withdraw as counsel for Lin's Restaurant, Inc. d/b/a Hayashi Hibachi Japanese Restaurant ("Defendant") and as grounds therefore respectfully show the Court as follows:

1. Defendant retained the law firm of Brown & Fortunato, P.C., including attorneys Bradley W. Howard and Allison L. Davis, in December of 2014.

2. Since that date, Mr. Howard and Ms. Davis have conducted many conferences with the representatives of Defendant, filed pleadings on behalf of Defendant, and engaged in extensive preliminary discovery efforts.

3. Brown & Fortunato, P.C. has issued Defendant monthly bills for January, February, March, and April of 2015, all of which Defendant has failed and refused to pay. In addition to those unpaid bills, counsel for Defendant expects to issue additional bills for work in progress.

4. Despite numerous telephone calls, text messages, and emails over a period of many weeks, Mr. Howard has been unable contact Jennifer Lin, one of Defendant's owners and Mr. Howard's primary point of contact for Defendant. It is currently believed that Ms. Lin has left the country.

5. Mr. Howard notified Defendant in letters dated April 16, 2015 and April 28, 2015 of Defendant's outstanding bills, estimated fees for work in progress, and the need for Defendant to make immediate payment in order to ensure continued representation.

6. In addition, during a May 8, 2015 meeting, Mr. Howard informed Zheng Fa Zhong, Defendant's local representative, that if Defendant did not make a payment to Brown & Fortunato, P.C. on or before May 11, 2015, Mr. Howard and Ms. Davis would seek to withdraw as counsel for Defendant.

7. Mr. Howard met with Zheng Fa Zhong on May 22, 2015 concerning this Motion. Mr. Zheng failed and refused to sign this Motion.

8. During that same meeting, Mr. Howard provided Defendant one last opportunity to make a payment on Defendant's account. Mr. Howard informed Mr. Zheng that if Defendant did not make a payment to Brown & Fortunato, P.C. by the end of the day on May 19, 2015, he and Ms. Davis would seek to withdraw as counsel for Defendant.

9. As of the date of this Motion, Defendant has not made any payment to Brown & Fortunato, P.C. for four (4) months of outstanding bills.

10. The Court issued an Original Rule 16 Scheduling Order in this matter on April 20, 2015. Though the Scheduling Order contains multiple deadlines, there are no imminent deadlines pertaining to Defendant, and this motion is not sought for delay.

11. Lin's Restaurant, Inc. d/b/a Hayashi Hibachi Japanese Restaurant is located at 3401 West Interstate 40, Amarillo, Texas 79109. Defendant may be reached via facsimile at (806) 322-8899, and its business telephone number is (806) 322-8988. Counsel for Defendant also agrees to provide Plaintiff's counsel with additional contact information, including cell phone numbers and email addresses, for representatives of Defendant.

12. There is good cause for the Court to grant this motion because Bradley Howard and Allison Davis, attorneys for Brown & Fortunato, P.C., have expended considerable effort in representing Defendant, and Defendant has failed and refused to pay Brown & Fortunato, P.C. for its services. Mr. Howard and Ms. Davis, therefore, seek to withdraw as counsel for Defendant and avoid incurring further unpaid time in this matter.

PRAYER

WHEREFORE, Bradley W. Howard and Allison L. Davis respectfully request that the Court grant this Motion to Withdraw as Counsel for Lin's Restaurant, Inc. d/b/a Hayashi Hibachi Japanese Restaurant.

Respectfully submitted,

Bradley W. Howard
State Bar No. 00786452
Allison L. Davis
State Bar No. 24058474
BROWN & FORTUNATO, P.C.
905 South Fillmore, Suite 400 (79101)
P.O. Box 9418
Amarillo, TX 79105-9418
(806) 345-6300 Telephone
(806) 345-6363 Facsimile
bhoward@bf-law.com Email
adavis@bf-law.com Email

By: /s/ Bradley W. Howard
Bradley W. Howard

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF CONFERENCE

This is to certify that Bradley W. Howard, counsel for Defendant, conferred with Jeremi Young, counsel for Plaintiff, on May 21st, 2015, regarding the merits of this motion and that counsel for Plaintiff does not oppose the filing of this motion.

/s/ Bradley W. Howard
Bradley W. Howard

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document and that a true and correct copy was served on the parties listed below through the electronic case filing system if the Notice of Electronic Filing indicated that the parties received it or otherwise by mailing a copy by Certified Mail, Return Receipt Requested, to the parties this ____ day of May, 2015.

Jeremi S. Young
Rachael Rustmann
The Young Law Firm, PC
1001 S. Harrison St., Suite 200
Amarillo, Texas 79101
jyoung@youngfirm.com
rachael@youngfirm.com

/s/ Bradley W. Howard
Bradley W. Howard

F:\DOCS\5285\001\PLEADING\2706691.DOC